



Office of the Mayor and Council
City of College Park
8400 Baltimore Avenue, Suite 375
College Park, Maryland 20740
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CEO-2020-02 Name: Justin Moffitt

Address: 9432 Rhode Island Avenue, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

December 8, 2020.

CERTIFICATE OF SERVICE

This is to certify that on December 10, 2020 the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

***RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CEO-2020-02,
9432 RHODE ISLAND AVENUE, COLLEGE PARK, MARYLAND, RECOMMENDING
APPROVAL OF A VARIANCE FROM CITY CODE §87-23 C TO PERMIT THE
CONSTRUCTION OF A 4-FOOT HIGH FRONT YARD FENCE.***

WHEREAS, the City, in accordance with §25-303 of the Land Use Article, Annotated Code of Maryland, has adopted §87-23, “Fences”, of the City Code, and established certain restrictions on the construction and reconstruction of fences on residential properties, including a height restriction on front yard fences; and

WHEREAS, pursuant to §15-19 of the Code of the City of College Park (“City Code”), the Advisory Planning Commission (“APC”) is authorized to hear appeals of the provisions of Chapter 87, Building Construction, of the City Code; and

WHEREAS, the City is authorized by §87-23 J to grant a variance where by reason of an extraordinary situation or condition, the strict application of the Fence Ordinance would result in peculiar and unusual practical difficulty to or an exceptional or undue hardship upon the owner of the property; and a variance can be granted without substantial impairment of the intent, purpose and integrity of the Fence Ordinance; and where, if applicable, the variance is consistent with the Design Guidelines adopted for the locally designated Historic District, and the fence for which a variance is requested incorporates openness as much as is practicable, provided that the fence shall not be constructed of chain link unless the material is consistent with the surrounding neighborhood; and

WHEREAS, on October 7, 2020, Justin Moffitt (“Applicant”), submitted an application for a 1-foot front yard fence height variance from the provisions of §87-23 C of the City Code, for the property located at 9432 Rhode Island Avenue, College Park, Maryland (“Property”); and

WHEREAS, on November 5, 2020, the APC conducted a hearing on the merits of the variance, at which time the APC heard testimony and accepted evidence, including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting an appeal set forth in §87-23 J of the City Code.

WHEREAS, based upon the evidence and testimony presented, the APC voted 6-0-0 to recommend that the variance be approved; and

WHEREAS, the Mayor and Council are authorized by §97-19 of the city code to accept, deny or modify the recommendation of the APC or return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to the variance request and have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC’s findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed.

NOW THEREFORE, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CEO-2020-02 for a 1-foot fence height variance to allow a 4-foot high picket fence in the front yard.

Section 1 Findings of Fact

- 1.1 The property is rectangular, 50-feet wide by 125-feet deep, fronting the Rhode Island Avenue access road.
- 1.2 The property contains 6,250 square feet and is improved with a 1.5-story, single-family, frame house with a rear deck. The rear yard contains a detached garage (24 feet x 24 feet or 576 square feet), and a patio.
- 1.3 The rear yard is constrained by an extensive garden including raised garden beds and over 20 potted plants, a patio and a detached garage, all of which limit the amount of grassy area available to accommodate the Applicant's large dog
- 1.4 A 6-foot high stockade fence encloses the rear yard, and a 3-foot high white picket fence encloses the front yard.
- 1.5 There are other 4-foot high fences along this street, some of which are chain-link, including the fence of the next-door neighbor to the north.
- 1.6 The City Fence Ordinance was first enacted in 2005 and was amended in 2017, to allow fences in the front yard up to 3 feet in height.
- 1.7 The Applicant states that a 3-foot high fence is not high enough to adequately restrain his large-breed Bernese Mountain dog.
- 1.8 The proposed 4-foot high white picket fence will incorporate openness.

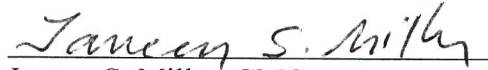
Section 2 Conclusions of Law

- 2.1 This property has an exceptional condition in that there is limited rear yard space to accommodate the Applicant's large-breed dog due to the existing large garage, patio, deck, and extensive container and raised bed gardens. The front yard has more unencumbered grassy space.
- 2.2 Denial of the variance will result in an unusual practical difficulty in that it will be more difficult to adequately restrain the Applicant's dog which could jump the fence and create a nuisance that could endanger the dog or other people.
- 2.3 The proposed 4-foot-high white picket fence is compatible with the character of the neighborhood and will not impair the intent, purpose or integrity of the Fence Ordinance because of the relatively-small area of the new fencing and that it is similar in style to the fence it replaces.
- 2.4 The property is not located in the regulated Old Town College Park Historic District.
- 2.5 The picket fence incorporates openness as much as is practicable for a fence needed to restrain a large dog.

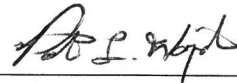
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park to approve CEO-2020-02 for a 1-foot fence height variance, as applicable, to allow a 4-foot high picket fence in the front yard of 9432 Rhode Island Avenue.

ADOPTED, by the Mayor and Council of the City of College Park at a regular meeting on the 8th day of December, 2020.

CITY OF COLLEGE PARK

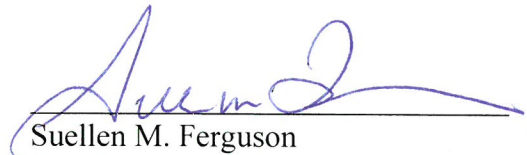


Janeen S. Miller, CMC
City Clerk



Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY



Suellen M. Ferguson
City Attorney